

THRESHOLD EXPOSURE LEVELS
UNDER THE TANNER ACT

May 24, 2001

Pursuant to the Toxic Air Contaminant Identification and Control Act (AB 1807, Tanner 1983), the California Air Resources Board ("ARB") has two control measure options. If ARB can determine a threshold exposure level, the control measure must ensure that emissions will not cause the threshold level to be exceeded. If no threshold level can be determined, ARB must adopt an airborne toxic control measure designed to reduce emissions to the lowest level achievable through the application of best available technology for each substance identified as a toxic air contaminant ("TAC") under the Act. California Health and Safety Code § 39666. The ARB's decision as to which option is appropriate appears to be based on whether there is sufficient scientific information to establish a threshold exposure level below which no significant adverse health effects are anticipated from exposure to the TAC. Typically, the ARB surveys the activities of US EPA and other recognized scientific authorities to determine if such a threshold has been established. In practice the ARB has not certified or promulgated a threshold exposure level for any TAC.

STATUTORY DISCUSSION

Section 39666 of the California Health and Safety Code requires the ARB to adopt airborne toxic control measures to reduce emissions of TACs from non-vehicular sources. The general control options depend on whether the ARB has determined THAT there is a threshold exposure level below which no significant adverse health effects are anticipated.

If the ARB has determined that there is a threshold level, the airborne toxic control measure must be designed to "reduce emissions sufficiently so that the source will not result in, or contribute to, ambient levels at or in excess of the level which may cause or contribute to adverse health effects as that level" has been estimated. In reaching this determination the ARB must evaluate several factors including:

- the levels and risks of exposure in indoor and outdoor air;
- the chemical characteristics of the substance in ambient air;
- the sources of the substance, the availability and technological feasibility of control measures to reduce or eliminate emissions;
- the cost of such measures;
- the availability of substitutes; and

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- the potential adverse effects of the control measure.

For TACs for which the ARB has not specified a threshold exposure level, the airborne toxic control measure must be designed to "reduce emissions to the lowest level achievable through application of best available control technology or a more effective control method." unless the ARB or a district board "determines, based on an assessment of risk, that an alternative level of emission reduction is adequate or necessary to prevent an endangerment of public health." In developing the airborne toxic control measure the ARB must evaluate the same factors as outlined above for when a threshold has been established.

Based on the statute it appears that the ARB's course is determined by whether a threshold exposure level has been established. If so then ARB must use the first option and establish control measures to ensure that air levels stay below the threshold levels. If not then ARB must use the second option and look at the lowest level achievable through the best available control technology or alternative levels that will prevent endangerment of public health. Again, as stated earlier, the ARB has in practice always concluded that no threshold exposure level exists as to each contaminant examined and has therefore moved to the second option.